IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF ALABAMA NORTHERN DIVISION

MACK AUTHER FOREMAN, JR., #200 291,	
Plaintiff,))
v.) CASE NO. 2:21-CV-519-WHA-SRW
CHRISTOPHER GORDY,) [WO]
Defendant.)

RECOMMENDATION OF THE MAGISTRATE JUDGE

Plaintiff, an inmate incarcerated at the Ventress Correctional Facility, filed this *pro* se 42 U.S.C. § 1983 action on August 5, 2021. On September 15, 2021, the Court directed Plaintiff to forward to the Clerk of Court the \$350 filing fee. Doc. 13. The Court cautioned Plaintiff that his failure to comply with the September 15 order would result in a Recommendation his complaint be dismissed. Doc. 13 at 2. To date, Plaintiff has not submitted the filing fee or otherwise complied with the Court's September 15, 2021, order.

A federal district court has the inherent power to dismiss a case *sua sponte* for failure to prosecute or obey a court order. *See, e.g., Link v. Wabash R.R. Co.*, 370 U.S. 626, 629–30 (1962); FED. R. CIV. P. 41(b). The Eleventh Circuit has made clear that "dismissal is warranted only upon a 'clear record of delay or willful contempt and a finding that lesser sanctions would not suffice." *Mingo v. Sugar Cane Growers Co-Op of Fla.*, 864 F.2d 101, 102 (11th Cir. 1989) (per curiam) (emphasis omitted) (quoting *Goforth v. Owens*, 766 F.2d 1533, 1535 (11th Cir. 1985)). Here, the Court finds that Plaintiff has willfully failed to comply with the court's September 15, 2021, order. In light of Plaintiff's disregard for

orders of this Court, the Court further finds that sanctions lesser than dismissal would not

suffice in this case.

Accordingly, the undersigned Magistrate Judge RECOMMENDS that this case be

DISMISSED without prejudice.

It is ORDERED that objections to the Recommendation of the Magistrate Judge

must be filed by January 5, 2022. Any objections filed must specifically identify the

factual findings and legal conclusions in the Magistrate Judge's Recommendation to which

a party objects. Frivolous, conclusive or general objections will not be considered by the

District Court. This Recommendation is not a final order and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and recommendations in

the Magistrate Judge's report shall bar a party from a de novo determination by the District

Court of factual findings and legal issues covered in the report and shall "waive the right

to challenge on appeal the District Court's order based on unobjected-to factual and legal

conclusions" except upon grounds of plain error if necessary in the interests of justice.

11TH Cir. R. 3-1; see Resolution Trust Co. v. Hallmark Builders, Inc., 996 F.2d 1144, 1149

(11th Cir. 1993); Henley v. Johnson, 885 F.2d 790, 794 (11th Cir. 1989).

DONE, on this the 21st day of December, 2021.

/s/ Susan Russ Walker

Susan Russ Walker

United States Magistrate Judge